IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1718 OF 2004

Royal Palms(India) Pvt.Ltd.
formerly known as Amir Parks
and Amusement Pvt.Ltd. ...Petitioner

vs.

1. State of Maharashtra & others. ...Respondents.

Mr.D.D.Madan i/b. Vigil Juris, for Petitioner.

Mr.A.A.Kumbhakoni, Addl.Advocate General With Ms.Geeta Shastri, AGP for Respondents.

CORAM: D.K.DESHMUKH,J.

DATED: 14th August, 2006.

P.C.:-

1. By this petition, the petitioner challenges the order passed by the Additional Commissioner, Konkan Division, Bombay dated 4.9.2000 allowing the appeal filed by the Respondent no.9-The Commissioner, Dairy Development and the order passed by the State Government dated 31.7.2003 confirming the order

passed by the Additional Commissioner.

2. The facts that are material and relevant for deciding this petition are that the proceedings were started before the Collector, Mumbai Suburban District for demarcation of the land of the petitioner. It appears that the land was compulsorily acquired from Survey no.169 of Village Maroshi (Marole) Tal.Borivali. The question that fell for consideration before the Collector was how much land was compulsorily acquired under the Land Acquisition Act from Survey no.169 and how much land remained with the petitioner. The Collector decided that question by his order dated 29.11.1999. The Collector held that from Survey no.169 only 281 acres land was acquired and therefore, the Respondent no.9 Commissioner, Dairy Development to whom the land was handed over after it was compulsorily acquired under the Land Acquisition Act, is in possession of land 19 acre and 20 gunthas in excess of the land which was acquired for its purpose. This order was challenged in the Appeal by Respondent no.9. That appeal was decided by the Additional Commissioner as observed above by his order dated 4.9.2000. The

Additional Commissioner has found that from the various notifications issued under Section 6 of the Land Acquisition Act, it is clear that the total area compulsorily acquired from Survey no.169 is 300 acres and not 281 acres as found by the Collector, and therefore, the Additional Commissioner has set aside the order passed by the Collector.

3. The petitioner, feeling aggrieved by that order, approached to the State Government in its revisional jurisdiction. The State Government decided that application by its order dated 31.7.2003. The State Government confirmed the order passed by the Additional Commissioner and has dismissed the revision application filed by the petitioner. These are the orders passed by the State Government and the Additional Commissioner which are under challenge in the present petition.

4. I have heard the learned Counsel appearing for both the sides. The petitioner and the respondents both have placed all the notifications that were issued under the Land Acquisition Act from

time to time for acquiring land from Survey no.169 of Village Maroshi (Marole) Taluka Borivail. The first notification is bearing No.6604/45 dt.1.4.1948 which was published in the Bombay Government Gazette. By that notification from Survey no.169(part) land admeasuring 280 acres 20 gunthas was acquired. By the second notification bearing no.1088/49 dated 7.6.1949 which was published in the Bombay Government Gazette dated 30.6.1949 land admeasuring 14 acres 24 gunthas was acquired from the Survey no.169(part). By the third notification bearing no.1083/49 which was published in the Bombay Government Gazette on 13.10.1949 land admeasuring 1 acre and 6 gunthas was acquired from Survey no.169(part). By notification bearing no.6604/45 dated 25.8.1948 which was published in the Bombay Government Gazette dated 16.12.1948, land admeasuring 3 acres and 39 gunthas was acquired from Survey no.169(part). The total land acquired by these four notifications issued under the Land Acquisition Act comes to 300 acres and 9 gunthas. It is thus clear from the documents on record that the findings recorded by the Collector that only 281 acres of land from Survey No.169 was

acquired, is factually incorrect, and therefore, the Additional Commissioner and the State Government are perfectly justified in setting aside the order passed by the Collector. Thus, I do not see any reason to interfere with the orders which are impugned in the petition. In the result therefore, the petition fails and is dismissed. Rule discharged. No order as to costs.